

P.O. Box 14300, Washington, DC 20044-4300 • p202 624-2500 • f202 628-8844

crowell & moring

RECEIVED
CENTRAL FAX CENTER

MAY 28 2004

OFFICIAL

FACSIMILE COVER PAGEDate May 28, 2004To: Examiner Philippe DERAKSHANIFacsimile Telephone Number: 703-872-9306Total Number of Pages (Includes Cover Sheet): 14From: Herbert I. CantorPhone: 202-624-2605CAM Number: 010746.48111REUser ID: 1318

Message:

Hard Copy to Follow: ☐ Yes ☒ No

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM, OR ENTITY TO WHICH, IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW.

If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please notify us immediately by telephone (collect), and return the original message to us at the address listed above via the U.S. Postal Service.

Thank You

Crowell & Moring LLP • www.crowell.com • Washington • Irvine • London • Brussels

MAY 28 2004

OFFICIAL

PATENT

#27
7H
2-8-05IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/368,505 Confirmation No. : 5618
Applicant : Gerd BRANDHORST, et al.
Filed : August 5, 1999
TC/A.U. : 3754
Examiner : Philippe DERAKSHANI
Docket No. : 010746.48111RE
Customer No. : 23911
Title : Device for Emptying a Film Tube (pentamix Reissue)

RESUBMISSION OF DOCUMENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Status Request was filed in the above-identified application on May 19, 2004. On May 26, 2004, a response to the Status Request was received by facsimile indicating that the Examiner's Answer to Appeal Brief mailed as of 08/04/2003 was the last document in the record.

On October 8, 2004, the undersigned filed a Communication with a copy of *Ex Parte* Eggert, a copy of the Communication and a copy of the stamped postcard are attached.

On August 25, 2003, the undersigned filed a Reply Brief and a Request for Oral Hearing. Copies of these documents and the stamped postcard are also attached.

Original
received
8/25/03
7H
2-8-05

Serial No. 09/368,505
Amendment Dated:
Reply to Office Action

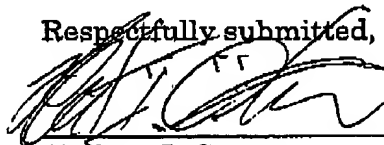
It is respectfully requested that these documents be entered into the record as of the dates originally filed and that the Examiner act on this case with dispatch.

If there are any questions regarding this resubmission or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 010746.48111RE).

May 28, 2004

Respectfully submitted,



Herbert I. Cantor
Registration No. 24,392

CROWELL & MORING, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844

14
PATENT

Atty Docket: 1860/48111RE
Serial No.: 09/368,505
Filing Date: AUGUST 5, 1999

Today's Date: October 8, 2003

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- ☒ Communication
☒ Copy of *Ex Parte* Eggert

DUE DATE



HIC:tcv

CROWELL & MORING, LLP
P.O. Box 14300
WASHINGTON, D.C. 20044-4300
TEL: (202) 624-2500

P.T.O.
receipt
10/8/03
see attached
sheet 44
2-8-05

1860/48111RE
PATENT

#30
44
2-8-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Gerd BRANDHORST et al.

Serial No. 09/368,505

Group Art Unit: 3754

Filed: August 5, 1999

Examiner: P. DERAKSHANI

For: DEVICE FOR EMPTYING A FILM TUBE

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

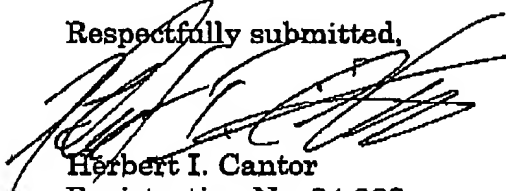
This is supplemental to the Brief and Reply Brief filed in this case. If the file has already been transmitted to the Board, it is requested that this paper be considered a Request for Remand to the Examiner. If the file has not yet been transmitted to the Board, the Examiner is respectfully requested to reconsider the rejection in light of the following discussion.

The Board recently published a decision and opinion in the case of *Ex Parte Eggert* (Appeal No. 2001-0790, May 29, 2003) (Copy enclosed for the Examiner's convenience). In *Eggert*, the Board explained that claims of a scope falling between the scope of an issued patent claim and the scope of a rejected claim which was then amended to result in the issued patent claim would not involve recapture it is suggested that *Eggert* might be relevant to the rejection in

Supplemental
Reply Brief
per
L.S.
44
2-8-05

the instant case and should be considered by the Examiner before the Board hears this appeal.

Respectfully submitted,



Herbert I. Cantor

Registration No. 24,392

October 8, 2003

CROWELL & MORING LLP
P.O. Box 14300
Washington, D.C. 20044-4300
Tel. 202-624-2500
Fax 202-628-8844
HIC:tcv

PATENTAtt'y Docket: 1860/48111RESerial No.: 09/368,505Filing Date: AUGUST 5, 1999Today's Date: August 25, 2003

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- ☒ Reply Brief
- ☒ Request for Oral Hearing
- ☒ Check No. 252801 in the amount of \$260.00

DUE DATE October 4, 2003

HIC:tcv



CROWELL & MORING, LLP
P.O. Box 14300
WASHINGTON, D.C. 20044-4300
TEL: (202) 624-2500

Original
received
8/25/03
HH
2-8-05

1860/48111RE
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Gerd BRANDHORST et al.

Serial No. 09/368,505

Group Art Unit: 3754

Filed: August 5, 1999

Examiner: P. DERAKSHANI

For: DEVICE FOR EMPTYING A FILM TUBE

REQUEST FOR ORAL HEARING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22318-1450

Sir:

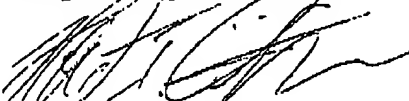
Appellants hereby request an oral hearing in connection with the above-identified application.

Appellants hereby submit the required filing fee of \$280.00 under 37 C.F.R. 1.17(g).

It would be appreciated if the undersigned were telephoned in the event there are any questions related to this response or the application in general.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any such fee or any deficiency in fees or credit any overpayment of fees to Deposit Account No. 05-1323 (Docket #1860/48111RE).

Respectfully submitted,



Herbert I. Cantor
Registration No. 24,392

August 25, 2003

CROWELL & MORING LLP
P.O. Box 14800
Washington, D.C. 20044-4800
Tel. 202-624-2500
Fax 202-628-8844
HIC:tcv

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

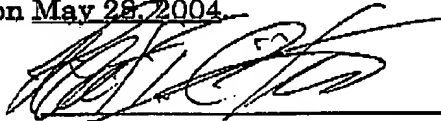
Application No. : 09/368,505 Confirmation No. : 5618
Applicant : Gerd BRANDHORST, et al.
Filed : August 5, 1999
TC/A.U. : 3754
Examiner : Philippe DERAKSHANI
Docket No. : 010746.48111RE
Customer No. : 23911
Title : Device for Emptying a Film Tube (pentamix Reissue)

CERTIFICATE OF FACSIMILE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that an original of this Resubmission of Documents is
being faxed to Examiner Philippe Derakshani at the U.S. Patent and Trademark
Office (fax number: 703-872-9306) on May 28, 2004.


Herbert I. Cantor
Registration No. 24,392

CROWELL & MORING, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844